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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11 RODERICK WASHINGTON, ) Case No. CV 09-8359-CBM(AJW)  
12 )  
13 Petitioner, ) MEMORANDUM AND ORDER  
14 ) DISMISSING PETITION  
15 vs. )  
16 )  
17 BOARD OF PAROLE HEARINGS, et al., )  
18 )  
19 Respondents. )  
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Petitioner filed this petition for a writ of habeas corpus on November 16, 2009. Respondent filed a motion to dismiss the petition, raising several grounds for dismissal, and petitioner filed an opposition to respondent's motion.

Discussion

1. Grounds Two through Five are duplicative of claims already pending in this Court

In Grounds Two through Five, petitioner challenges the imposition of various parole conditions, including his classification as a sex offender, residency limitations, and a GPS monitoring requirement. [Petition at 5-6]. The same allegations are included in a separate

1 habeas petition that is already pending in this Court. [Case No. CV  
2 08-7911-CBM(AJW)].<sup>1</sup> Because there is currently another petition pending  
3 involving the same petitioner and same subject, the interests of  
4 judicial economy and justice are best advanced by dismissing these  
5 duplicative claims without prejudice to their resolution in petitioner's  
6 earlier-filed case.<sup>2</sup>

7 **2. Ground One is moot**

8 Ground One challenges a July 2009 parole revocation. This claim is  
9 moot.

10 Throughout litigation, the petitioner/plaintiff "must have  
11 suffered, or be threatened with, an actual injury traceable to the  
12 [respondent/defendant] and likely to be redressed by a favorable  
13 judicial decision." Lewis v. Continental Bank Corp., 494 U.S. 472, 477  
14 (1990). An incarcerated (or paroled) convict's challenge to the  
15 validity of his conviction satisfies the case-or-controversy requirement  
16 because the incarceration (or parole conditions) constitutes a concrete  
17 injury, caused by the conviction and redressable by the invalidation of  
18 the conviction. Spencer v. Kemna, 523 U.S. 1, 7 (1998). Once the  
19 convict's sentence expires, however, some concrete and continuing injury  
20 other than the now-ended incarceration or parole - some "collateral  
21 consequence" of the conviction - must exist if the suit is to be  
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23 <sup>1</sup> The Court takes judicial notice of the relevant official court  
24 files. See Fed. R. Evid. 201; Lee v. City of Los Angeles, 250 F.3d 668,  
688 (9th Cir. 2001).

25 <sup>2</sup> Petitioner contends that the allegations in this petition  
26 materially differ from the allegations in the petition filed in Case No.  
27 CV 08-7911-CBM(AJW). [Opposition at 6-7]. Although the present petition  
28 is slightly different from the 2008 petition, and arguably contains a  
clearer statement of petitioner's claims, the Court has construed the  
petition in Case No. CV 08-7911-CBM(AJW) as challenging the same parole  
conditions as petitioner challenges in this case.

1 maintained and not considered moot. Spencer, 523 U.S. at 7. Courts may  
2 presume that a criminal conviction has continuing collateral  
3 consequences. See Spencer, 523 U.S. at 8-12 (noting that the Supreme  
4 Court has been willing to accept hypothetical collateral consequences  
5 for criminal convictions). This presumption, however, does not extend to  
6 other contexts. See Spencer, 523 U.S. at 12-13; Lane v. Williams 455  
7 U.S. 624, 632-633 (1982). In particular, where, as here, a petitioner  
8 seeks to challenge the revocation of his parole, he or she must  
9 demonstrate that continuing collateral consequences exist if the  
10 underlying sentence has expired, see Spencer, 523 U.S. at 14-18, or if  
11 the additional term imposed for violating parole has been served. See  
12 Cox v. McCarthy, 829 F.2d 800, 803 (9th Cir. 1987) (concluding that  
13 habeas petitions were moot because the additional term imposed for  
14 petitioners' parole violations already had been served); cf. Wilson v.  
15 Terhune, 319 F.3d 477, 481 (9th Cir.) (holding that the presumption of  
16 collateral consequences does not extend to prison disciplinary  
17 proceedings), cert. denied, 539 U.S. 933 (2003). Claims that a parole  
18 revocation might be used in the future to render petitioner ineligible  
19 for parole, increase his sentence, impeach his testimony, or prove his  
20 liability or guilt do not constitute sufficient proof of collateral  
21 consequences. See Spencer, 523 U.S. at 14-16.

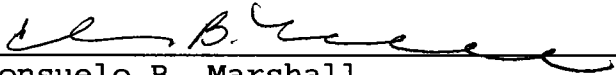
22 On September 26, 2009, petitioner was released from the custody  
23 resulting from his parole revocation. [Lodged Doc. 6; Petitioner's  
24 Opposition at 3]. While petitioner theoretically might be able to  
25 allege collateral consequences resulting from the parole revocation  
26 sufficient to save his claims from being moot, he has not done so.  
27 Accordingly, petitioner's challenge to his 2009 parole revocation is  
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1 moot.<sup>3</sup>

2 **Conclusion**

3 For the foregoing reasons, respondent's motion to dismiss the  
4 petition is **granted**, and the petition is dismissed without prejudice as  
5 duplicative (Grounds Two through Five) and as moot (Ground One).<sup>4</sup>

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7 Dated: 2/23/2010

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9 Consuelo B. Marshall  
10 United States District Judge  
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21 <sup>3</sup> The fact that petitioner can no longer obtain relief for the  
22 allegedly invalid parole revocation does not mean that he cannot  
23 challenge the legality of the parole conditions which he allegedly  
24 violated. As discussed, the constitutionality of those parole  
conditions remains at issue in Case No. CV 08-7911-CBM(AJW).

25 <sup>4</sup> Petitioner may or may not be attempting to challenge his  
26 classification as a sex offender in this case. Even if he is, he cannot  
27 do so in this Court. That classification was imposed as the result of  
28 a 2006 indecent exposure conviction in Kings County Superior Court, so  
any challenge to it should be raised in a habeas petition filed in the  
United States District Court for the Eastern District of California.  
See Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 488 n. 15  
(1973); 28 U.S.C. §2241(d); 28 U.S.C. §84(b).